SPECIAL JOINT STUDY SESSION
December 5, 2002

The Board of Directors of the Maricopa County Flood Control District, Arizona convened at 9:00 a.m., December 5, 2002, in a Joint Special Meeting/Study Session with the Flood Control District Advisory Board in the Board of Supervisors' Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Don Stapley, Chairman; Max W. Wilson, and Mary Rose Wilcox. Absent: Fulton Brock, Vice Chairman; and Andy Kunasek. Advisory Board members present: Mel Martin, Chairman; Shirley Long, Vice Chairman; Scott Ward, Secretary; Kent Cooper, Hemant Patel, Paul Cherrington and Tom Callow. Also present: Mike Ellegood, Chief Engineer and General Manager; and Julie Lemmon, General Counsel. Flood Control District; Fran McCarroll, Clerk of the Board; Shirley Million, Administrative Coordinator; David Smith, County Administrative Officer; and Paul Golab, Deputy County Attorney.

PRESENTATION AND DISCUSSION: FLOOD CONTROL DISTRICT

Item: Presentations and discussion regarding the following Flood Control Issues: (C6903046M) (ADM1900)

Proposed Strategic Plan
Cost Sharing Policy
Internal Audit Findings
League of Cities Resolution No. 27
Drainage Administration
Long Range Budgeting Forecast

Michael Ellegood, Chief Engineer and General Manager, introduced the Flood Control Advisory Board members (FCAB): Shirley Long, District 4; Scott Ward, District 1; Paul Cherrington, SRP Representative; Kent Cooper, District 2; and Tom Callow, City of Phoenix Representative; Mel Martin, Chairman, District 5. He then introduced guests who were present, Tom Sands, SRP; Michael Shapiro, DMJM & Harris; Brian Fry, Dibble & Associates. He also introduced members of his staff who were attending.

Mr. Ellegood explained that the Flood Control District has been rated in the top 1% in the United States for floodplain management. He said they have created a very strong educational program and have shown presentations to 40,000 school children. The District is also educating local college students, residents, civic groups, scouts and real estate agents with their "Flash Flood" safety video, which is used as a training tool nationally.

Incorporating a slide presentation and handouts, Mr. Ellegood began with a look back to November 1997 to review the directive the Board of Directors gave to the Flood Control District. The District was asked to reduce the tax rate to $.07 in 5 years, cap the secondary tax revenue at $44.7M, reduce the $36M fund balance to the amount necessary to meet annual needs, and to achieve a 50-50 cost share within the CIP (Capital Improvement Project). Much of this has been accomplished. In FY2002 the secondary tax rate was $.2319, the secondary tax revenue at $45M, the ending fund balance was $18.8M and cost sharing with client cities was increased from 13% to 37.4%.

The revenue generated was used to study and plan for growth in 13 drainage areas along 8 watercourses, and to increase flood protection for residents by constructing $152M worth of flood control structures. A graph was used to show the CIP's annual budget and the prioritized projects to be completed. He added that there are some newly identified CIP needs that must be addressed.

Chairman Stapley asked if these were mostly in the Watercourse plans. When this was confirmed by Mr. Ellegood the Chairman asked if these are concerns that need attention immediately or over a period of time.

Mr. Ellegood explained that they are newly identified needs typically coming out of the Watercourse Master Plan or an Area Drainage Master Plan that have not been prioritized into the District's CIP. He indicated that these are needs that should be addressed whether they come from capital, construction, a form of regulation or developer participation.

As to the future, Mr. Ellegood said, "Our mission will remain the same but our method of doing it will change." As the Valley continues to grow the need for infrastructure and proper drainage grows with it. He explained that transportation needs to build roads to accommodate growth, and flood control needs to build drainage facilities to accommodate new growth. "You cannot rely on the developers to build them. It must be integrated with other flood control systems, because a properly managed watershed is one that is managed by a water agency." He said that a developer or municipality would develop a piece of the watershed without authority, or the necessary resources to take care of the drainage coming in or going out.

Chairman Stapley said that some believe the District was created to catch up on the lack of planning that had been going on for decades. He asked, "Where does the mission of the District merge with the requirements of developers to carry their portion of the responsibility?"

Mr. Ellegood explained that when a series of development communities are planned for construction at different times, the overall area must first be studied and considered when planning protective flooding infrastructure, to incorporate the time lapse. Infrastructure needs to be built at the appropriate time and in the appropriate place. He said, "There is an array of strategies that we use, the last of which is massive infrastructure. Where we can regulate, we do. Where we can get a developer's participation, we do."

Hemant Patel, Advisory Board Member, agreed that the development community should provide many of these structures. He said, "What I see different in Maricopa County is that we don't have the tools to cover the cost of the investments that we make. We are using public dollars to establish watersheds, etc., but we have no way to recover the cost."

Chairman Stapley asked him what tools he would we need to recover the money.

Mr. Patel responded, "More use of assessment, much like the cities do with construction impact fees. We don't have that so we are constantly getting behind. One of the frustrating things I see is having to go back in to fix it after the developer gets through. It costs much more money to do it that way."

Mr. Ellegood addressed budget growth and constraints by explaining, "Our budget people say planning does not belong in the CIP program it belongs in the operating cost, this change would be a big initial chunk of approximately $3.5 M."

The District also needs to put more emphasis on regulation and planning. The total expenditure budget may increase over time but the final fund balance will be maintained at about $18 million. Discussion ensued on budget performance and expected growth in unincorporated Maricopa County and the availability and use of matching funds from partnering cities and towns. Mr. Ellegood said that the

Proforma Budget shows what he believes he needs for at least the next fiscal year and added that the numbers are being continually refined. The Proforma Budget does not follow the OMB budget guidelines received by the District.

Director Wilson asked about possible land sales from the District's inventory.

Mr. Ellegood replied that the District typically sells about $5M in property a year. "We've done that rather consistently the past five years and our budget takes that into consideration."

Scott Ward, Advisory Board, said, "We have a project coming up that can create revenue from pieces normally sold to the public, we can go in and plat and zone to increase the value. I really support this project."

Mr. Ellegood reported that the client cities might have difficulty in cost sharing with the District because of the budget crises. The cities are more dependent on sales tax revenue and state sharing revenue than the District. Some cities have come back to report that they have to postpone a project because of lack of funds. We have written all of our client cities having CIP projects that we are expecting a cost share partnership with during the next few years to get a confirmation that these are still solid. If they cannot cost share, it will be recommended that the land be acquired and protected and the project put on hold for later development.

He said that the District tries to be fair, consistent and equitable with the client cities but there is no cost sharing in unincorporated areas of Maricopa County and this has become an issue when negotiations are held with client cities. He reported that when a client city accepts a project and maintains it, the ongoing expenditure is removed from the District.

Discussion ensued on the effectiveness of cost sharing from the city's point of view. Mr. Callow, City of Phoenix, maintained that as the largest city in the County they are "not getting their money's worth" and maintained that while the District may call it cost sharing, the City of Phoenix calls it "double taxation." He stated that Phoenix taxpayers stand to lose roughly $100 million to the District and he cited similarly lost revenue on transportation levies as well. He explained that residents are asking, "What is the purpose of all this, are we exporting money to surrounding cities or the unincorporated portions of the county?" He stated that Phoenix would like what they term, "Fair consideration when money is collected and a reasonable amount to come back." He disclosed that Phoenix recognizes that, as a larger city, some of their money must compensate for the municipalities unable to respond with necessary funds.

Chairman Stapley reminded Mr. Callow that Phoenicians also drive on streets outside the Phoenix city limits. He asked the District two appointee, Kent Cooper, what he thought about cost sharing, now and for the future.

Mr. Cooper replied, "There has to be more diplomacy with the ideas of cost sharing and a flexible formula set-up. He said that unincorporated areas and some towns don't have the money for some things and with cost sharing the funding option for much needed projects becomes a realty for them." But he agreed that double taxation is an issue and suggested that one answer would be to change the mechanism of financing District projects from property tax funds. He said, "The City of Gilbert has been incorporated 13 years now and has been paying taxes to the District all that time, and we are finally, just now, getting a project done."

Supervisor Wilcox said that both she and Supervisor Wilson have been on "both sides of these issues" – on city councils and the Board of Supervisors – and could understand what the cities were saying. "But once I came to the County I saw what could be done from a regional standpoint that will benefit the whole valley and not just certain parts of it." She suggested creating a new joint subcommittee to come up with new and beneficial ways to reach out to other government agencies to solve today's new breed of evolving problems.

Mr. Ellegood said that what he would like to see happen includes more flexibility to move money from one budget area to another, particularly in the area of operating costs. He also wants the tax rate stabilized at $.2119 to permit revenue to grow to meet the increased population demands. Finally, he asked for cost share flexibility.

He continued, saying that another key issue facing the County is the NPDES permit application (National Pollution Discharge Elimination System). He explained that the District has been working with Phoenix, Scottsdale, and several other major cities, to follow these guidelines since 1991, but two years ago the federal agency said that the entire County must be in compliance. (The permit has to do with continual water testing after rainfall for pollutants and is complicated and expensive.) He said it is really a County issue, not a District issue, and explained that the County is mandated by the Federal government to do this and "we picked it up because we have the technical expertise to do it." The deadline to submit an application for this discharge permit is March 10, 2003. There is a $31,000 a day fine if this date is missed. The District has a pending request of $246,535 for costs, $200,000 for the permit application and $46,535 for an additional field staff member to work on it. He said they need assurance that the Board wants the District to lead in this compliance, and if this is confirmed he indicated that the IGA between the County and the District must be amended to establish it.

Mr. Ellegood reported that 17 of his management staff would be retiring within the next five years, including himself. These people represent 243 years of total work experience and 109 total years of experience with District matters. He said that as a prudent manager he felt he had to hire people who would be able to gain the necessary knowledge to replace these key retirees as it happens and asked for authorization to overlap key positions during a six-month transition period.

He next addressed the aging infrastructure of the County's 22 dams. They have identified and assessed the highest-risk issues of embankment cracking, subsidence, earth fissures and eroding dam foundations. He said many are bad and need to be addressed but they believe there is no imminent danger. Dam safety standards have become more stringent and urbanization plays an increasingly key role with its accompanying downstream population increases, emergency spillway inundation impacts, watershed impacts and reservoir encroachment. He said he foresees an expenditure of $220M over the next 25 years and he is asking the Board to provide funding to meet infrastructure maintenance demands, and also for assistance from the County with the congressional delegation to identify federal assets.

Discussion ensued on these topics which included the source of water use in different areas of the County, the use of recharge water and the current condition of wells after undergoing a period of drought.

Mr. Ellegood informed the FCAB and the Directors of four pending issues the District is aware of and working on. The first of the four is the Internal Audit. He distributed a draft audit summary report and explained that nine audit findings were brought to the District's attention. Some of the issues have already been taken care of. Overall, he was appreciative of the internal audit staff, saying the process is a good "check and balance system for the District."

The second issue is with the Arizona Department of Water Resources (ADWR). Arizona law gives ADWR exclusive authority over dams and they order any remedial actions. Their rules require them to inspect 100 to 125 dams every year. Their resources and manpower have been drastically cut and they don't have the resources to comply with these regulations. There are 70 "high hazard" dams throughout the State (with 16 in Maricopa County) and of the 70 dams, approximately 30 will be inspected by the ADWR this year. He said that anything the District can do to help alleviate their restrictions would benefit the County in the long run.

The third issue is the pending League of Cities Resolution #27. He informed the Boards that this legislative proposal would modify A.R.S. § 48-3610 (a) to relieve a city or town from paying County Flood Control District taxes when they assume the powers and duties of the flood control district. This would significantly impact revenue for the District.

~ Advisory Board member Tom Callow left the meeting at this time ~

The last pending issue revealed by Mr. Ellegood regarded differing opinions on a proposed transfer of the District's drainage administrative functions to the County's Planning and Development Department where planners already on the Planning staff could be used. This would be done as a cost-saving incentive.

Supervisor Wilcox asked if Planning and Zoning has the expertise and staff to provide drainage review and fulfill the drainage projects if they take it over.

Mr. Ellegood stated that he believes the District engineers can provide better drainage reviews and inspection services under the provisions of Title 11 than the planners could provide. He added, "And we can do this for less cost and with higher quality, while assuring a greater degree of long-term public safety."

Mr. Patel said, "Wasn't there an issue with the certification?"

Mr. Ellegood responded, "If it is in a floodplain we are on the hook anyway. Cities have done it over time, but not very well. They don't have a long-term area plan. We're always getting requests from client cities for help on drainage problems that they've 'fixed.' It costs a lot more to correct their mistakes than to do it right in the beginning."

Chairman Stapley said he'd heard that the proposal came after a complaint was received from an applicant who said the Flood Control stamp cost him five times more than the total of all the other permit stamps he'd needed for a project. He asked, "Is there a redundancy in the District where one engineer's stamp is required and then a second engineer checks on his work and also stamps it?"

Mr. Ellegood replied, "No. Only one engineer's stamp is required from the District. He indicated that a meeting has been scheduled for Friday, December 6, to meet with OMB on this and other matters.

Discussion ensued on the impact fee situation and methods of defusing it, and the idea of relating cost to a particular home or group of homes. Impact Fees provide an additional revenue stream to help support regional development and responsible accountability for the cost impact of something that, over the years, has been socialized to all the taxpayers each time a new development is built. Property taxes are not likely to expand as the full impact of the recession in the commercial and resort industry show decreased assessments on that side. This means that a $.21 levee may not generate current revenues, and it could be far less than current levels. Creativity, all means of efficiency on the operating side, and preserving dollars for the capital side must become a way of life. It was argued that the factual basis to argue rationally with the cities, towns and development community with regard to fair share financing would be prior completion of the drainage and flood plain master plans. Then the District could show all the cities where the money is going based on need. This would provide for a totally objective methodology and a totally non-political way of doing capital improvement.

Chairman Stapley stated, "What we do now is crucial. We need to make a decision but we cannot make that decision today. We need to get back together, maybe ninety days out. The District will have a better handle on the situation with the cities then and we can look at different options and make some decisions, looking at the next five years."

Supervisor Wilson said, "There is never enough money and until the State gets their house in better order we will have this problem. We are going through a drought – we've been through that before – and we are going through a recession. It all falls under long range planning. I think development ought to assume a share of infrastructure costs but I don't want to put us in the position of taking some authority away from the FCAB. I like the activity in this FCAB and their responsibility. I would like to see more recommendations from them."

Chairman Stapley responded, "I agree, but we'll know a lot more about where we stand after OMB analyzes it. Five years ago, we spent a whole day with staff and came out of there with a consensus and a policy to put in place. Mike has asked us to respond to four needs. We all need to have some serious discussions with Management and each other on how best to respond to those needs. We need innovative and creative ways to solve the five-year shortfall of capital. The fact is that we are not going to raise taxes so how can we more efficiently manage what we have, given the fact that we are going to have even less in the near future?"

Discussion ensued on the possibility of reductions to the CIP but a determination was made that it is not an appropriate time to make this decision. In summation it was reiterated that the District would like to maintain a level rate in the secondary levee with a resulting monetary increase. This would allow an increase in the County's portion of the CIP and could, in part, counteract an anticipated reduction in the share received from Phoenix. But that is still a problematic issue. The cities have all been asked to make commitments in writing. Area studies will need to be implemented to somehow shift as much of the burden of these regional structures as possible to the development communities. The County does not want to raise property taxes but they are receiving requests from the cities wanting money back because they are also in a financial crisis. Budgetary concerns affect all state governments and will continue to do so for some time. Another meeting will be held in the near future.

MEETING ADJOURNED

There being no further business to come before the Board, the meeting was adjourned.

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Don Stapley, Chairman of the Board

ATTEST:

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Fran McCarroll, Clerk of the Board